

## **Exhibit 4**

October 28, 2009

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**VIA EMAIL**

Andrew D. Weiss, Esq.  
Russ August & Kabat  
12424 Wilshire Blvd.  
Los Angeles, CA 90025

**Re: nXn v. Yahoo! Inc. et al. & Bright Response v. Yahoo! Inc. et al.**

Dear Andrew:

I write in response to both of your letters dated October 27, 2009.

Responding to the request in your first letter, I can confirm that the source code for the functionality described in YAH0021153-236 has been made available for inspection.

Turning to your second letter, your inaccurate accusations are not well-taken, given that you have been involved in this case for less than a week and apparently have not yet come up to speed on the facts of the case. Your letter is also confusing on many points. The first sentence of your letter refers to Yahoo's production of source code "in this case," but the re line of your letter refers to two different cases, so it is not clear which case you are referring to.

I'm not sure what the basis is for your assertion that certain code "was originally produced but has apparently been removed from the inspection computer," but perhaps you are not aware that there are two separate source code productions that are proceeding in parallel. As such there are two different sets of laptops that have different sets of code installed on them. I previously made the offer to plaintiff's counsel to combine all of the code onto a single computer, but I have not received a response to my offer. If you could please explain the basis for your claim that code has been removed from one of the laptops and explain which case you are referring to, I would be happy to investigate your concerns as respond to them.

With respect to your second assertion, I note that Bright Response's infringement contentions do not list Yahoo! Mail as an accused instrumentality. As such, and because of the limitations of the asserted claims, Yahoo! Mail is not relevant to the Bright Response lawsuit.

With respect to your assertion regarding Yahoo's Click Server source code, I note that this is something that was recently requested by Ms. Hepburn in the Bright Response case, and Yahoo has agreed to produce it once plaintiff has completed its current review of the source code in that case.

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With respect to your closing allegations, Yahoo has not refused to produce source code. In fact, Yahoo! has been cooperative in providing all properly requested code. You also mention nXn's including something in "its motion to compel." I am not aware of any pending or threatened motion by nXn, and I don't believe that there is any basis for any such motion. With respect to the pending motion in the Bright Response case, Yahoo made its source code available for inspection as it agreed to do, and it has agreed to make additional code available in response to requests from plaintiff.

As always, I would be happy to speak with you directly to resolve (and, I hope, reach agreement on) any additional open issues.

Sincerely,

s/Jason C. White

Jason C. White